

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated February 16, 2011. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested. Claims 1-3 and 5-21 are pending in the Application. Claims 1, 2, 14 and 18 are independent claims.

In the Final Office Action, claims 1-7, 11-13 and 20-21 are rejected under 35 U.S.C. §102(b) over European Patent Publication No. 1154412 to Kono ("Kono"). Claims 14-19 are rejected under 35 U.S.C. §103(a) over Japanese Patent Publication No. 2004-079103 to Harada ("Harada"). Claims 8 and 9 are rejected under 35 U.S.C. §103(a) over Kono in view of Harada. Claim 10 is rejected under 35 U.S.C. §103(a) over Kono in view of U.S. Patent Publication No. 2002/0101803 to Hayashi ("Hayashi"). The rejection of the claims is respectfully traversed. It is respectfully submitted that the rejected claims are allowable for at least the following reasons.

At page 2 of the Final Office Action, the Examiner disagrees with the Applicant's argument but neglects to point exactly where in paragraph [0038] of Kono, support for such assertion is found. Contrary to the claims, which set out "indicating an axial focus spot displacement", Kono is directed to detecting disturbing of focus control due to disturbance, vibration or physical defect of the disk (see, Kono, paragraph [0022]). In the referenced paragraph [0038] Kono explains the "the focus error signal is obtained only when the light beam focuses nearly on the data plane" and "if the S-shaped waveform Q1 is missed, an error is no longer detected." So, Kono detects the quantity of the light reflected from the optical disk. Accordingly, Kono does not rely on the focus error signal and instead uses the

quantity of the light reflected. This teaches away from the claims, which recite "an error on two or more of the plurality of distinct input signals indicating an axial focus spot displacement", as for example recited in claim 1.

Moreover, in col. 9, lines 11-15, referenced by the Final Office Action on page 3, Kono states the following:

if a quick response is required, the servo failure had better be detected with focus error signal. Thus, the failure may be detected preferably with the focus error signal and the quantity of the reflected light.

Thus, assuming, arguendo, that the focus error signal and the quantity of the reflected light are relied on together and not as Kono states at col. 8, lines 53-55, interchangeably, it is the servo failure, which is a mechanical or motor failure that is being detected, not the axial focus spot displacement, as recited in the claims. It is respectfully submitted that the servo failure of Kono is different from and not synonymous with axial focus spot displacement as recited in the claims. Therefore, it is respectfully submitted that Kono does not teach, disclose, or suggests "an error on two or more of the plurality of distinct input signals indicating an axial focus spot displacement", as for example recited in claim 1.

It is respectfully submitted that claim 1 is not anticipated or made obvious by the teachings of Kono. For example, Kono does not teach, disclose or suggest, amongst other patentable elements, (illustrative emphasis added) "an error on two or more of the plurality of distinct input signals indicating an axial focus spot displacement; and inhibiting the writing process in case of the axial focus spot displacement" as recited in claim 1, and as similarly recited in claim 2.

It is undisputed that Harada fails to disclose "an error on two or more of the plurality of distinct input signals indicates the axial focus spot displacement", as for example recited in claim 14 (see pages 2 and 7 of the Final Office Action). Instead the Final Office Action states that it would have been obvious to one of ordinary skill to decide from the two or more inputted signals. It is respectfully submitted that repetition of this assertion in light of the Applicant's argument in the response to the previous Office Action is disingenuous. In the very least the Examiner should have indicated which Harada's teachings and which two or more of Harada's signals would have made it obvious to one of ordinary skill.

It is also noted that the Examiner erroneously focuses on servo control parts 26 and 28 not on "an error on two or more of the plurality of distinct input signals indicates the axial focus spot displacement", as recited in claim 14, for example. The servo failure is different from and not synonymous with axial focus spot displacement. As with regard to the Examiner's repeating the "redundancy affirming" argument on page 2 of the Final Office Action, it is respectfully submitted that reliance on this position is misplaced. The reverse of basing the determination of "an error on two or more of the plurality of distinct input signals" is not determining an error on one signal as in Harada. In accordance with the claims recitation, only one signal does not indicate an error. Accordingly, using two signals does not affirm redundancy and the Examiner's reliance on Harada is misplaced.

It is respectfully submitted that claim 14 is not anticipated or made obvious by the teachings of Harada. For example, Harada does not teach, disclose or suggest, amongst other patentable elements, (illustrative emphasis added) "a write inhibit circuit for monitoring a plurality of distinct input signals while focusing the write light beam in a focal

spot at a target storage layer and for inhibiting a writing process in case of an axial focus spot displacement, an error on two or more of the plurality of distinct input signals indicates the axial focus spot displacement" as recited in claim 14 and as similarly recited claim 18.

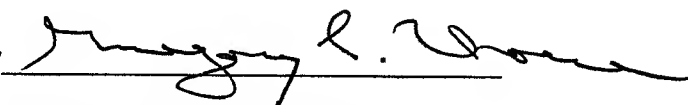
Hayashi is introduced for allegedly showing elements of a dependent claim and as such, does not cure the deficiencies in Kono and Harada.

Based on the foregoing, it is respectfully submitted that the independent claims are patentable and notice to this effect is earnestly solicited. The dependent claims respectively depend from one of the independent claims and, accordingly, are allowable for at least these reasons as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response, and in particular, no Official Notices are conceded. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicant has made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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